UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**CIVIL ACTION NO. 98-C-5618**
	)	
THE PREMCOR REFINING GROUP, INC.,	)	**JUDGE MAROVICH**
	)	
Defendant.	)	
	)	

AMENDED COMPLAINT

The United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the United States Environmental Protection Agency ("U.S. EPA"), alleges:

NATURE OF ACTION

1. This is a civil action brought against the Premcor Refining Group, Inc. ("Premcor" or "Defendant") to obtain injunctive relief and assessment of civil penalties for certain violations of the following federal statutes and the applicable federal, state, and local regulations and other provisions implementing those statutes: the Clean Air Act ("CAA"), 42 U.S.C. § 7401 et seq.; the Clean Water Act ("CWA"), 33 U.S.C. § 1311 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq.; and the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11001 et seq. The violations alleged in the Complaint occurred and are occurring at Premcor's petroleum refinery in Blue Island, Illinois.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355; Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Sections 309(b) and 311(b)(7) of the CWA, 33 U.S.C. §§ 1319(b) and 1321(b)(7); Section 3008(a) of RCRA, 42 U.S.C. § 6928(a); Sections 109(c) and 113(b) of CERCLA, 42 U.S.C. §§ 9609(c) and 9613(b); and Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3).

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1395; Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Sections 309(b) and 311(b)(7)(E) of the CWA, 33 U.S.C. §§ 1319(b) and 1321(b)(7)(E); Section 3008(a) of RCRA, 42 U.S.C. § 6928(a); Sections 109(c) and 113(b) of CERCLA, 42 U.S.C. §§ 9609(c) and 9613(b); and Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), because the violations alleged herein occurred and are occurring at Premcor's Blue Island facility, which is located in this district.

NOTICE TO STATE

4. Notice of the commencement of this action has been given to the State of Illinois pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); Section 309(b) of the CWA, 33 U.S.C. § 1319(b); and Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

DEFENDANT

5. Premcor is incorporated under the laws of the State of Delaware and is registered to conduct business in the State of Illinois. Premcor (formerly known as Clark Refining and Marketing, Inc.) has owned and operated a petroleum refinery located at 131st Street and Kedzie Avenue, Blue Island, Cook County, Illinois (the "Blue Island Refinery" or the "Facility") at all times relevant to this complaint.

Premcor manufactures, among other things, gasoline, liquid petroleum gas, heating fuel, jet fuel, diesel fuel, and asphalt at the Blue Island Refinery.

6. The Premcor Refining Group, Inc., is a "person" as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e); Section 502(5) of the CWA, 33 U.S.C. § 1362(5); Section 1004(15) of RCRA, 42 U.S.C. § 6903(15); Section 101(21) of CERCLA, 42 U.S.C. § 9601(21); Section 329(7) of EPCRA, 42 U.S.C. § 11049(7); and applicable federal, state, and local regulations promulgated pursuant to the foregoing, including Article II of the Metropolitan Water Reclamation District of Greater Chicago's Sewage and Waste Control Ordinance, as amended.

7. The Blue Island Refinery is a "petroleum refinery" within the meaning of 40 C.F.R. §§ 60.101(a) and 61.341 and 35 Illinois Admin. Code § 211.4630.

STATUTORY AND REGULATORY BACKGROUND AND GENERAL ALLEGATIONS

Clean Air Act -- National Emission Standards for Hazardous Air Pollutants

8. Section 112 of the CAA, 42 U.S.C. § 7412, requires U.S. EPA to promulgate emission standards for certain categories of sources of hazardous air pollutants ("National Emission Standards for Hazardous Air Pollutants" or "NESHAPs").

9. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), U.S. EPA promulgated National Emission Standards for Benzene Waste Operations ("Benzene Waste Operations NESHAP"). Those regulations are set forth at 40 C.F.R. Part 61, Subpart FF. Pursuant to 40 C.F.R. § 61.340(a), the provisions of 40 C.F.R. Part 61, Subpart FF apply, inter alia, to petroleum refineries.

10. Premcor's Blue Island Refinery is subject to the Benzene Waste Operations NESHAP, 40 C.F.R. Part 61, Subpart FF.

11. 40 C.F.R. § 61.342(b) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF, and at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr, to manage and treat the facility waste pursuant to the requirements of 40 C.F.R. §§ 61.342(c) - (e).

12. The total annual benzene quantity in the Blue Island Refinery's waste is and/or has been equal to or greater than 10 Mg/yr.

13. Benzene is a cyclic hydrocarbon compound that is a volatile, flammable liquid at room temperature. Benzene has been determined to be a human carcinogen based on studies that link occupational exposure to benzene with leukemia. No threshold level has been established for risks to human health from exposure to benzene.

14. 40 C.F.R. §§ 61.342(a) and 61.355(a) require each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF, to determine the total annual benzene quantity from facility waste by summing the annual benzene quantity of specified waste streams. These provisions also require such owners and operators to determine the annual benzene quantity for specified waste streams, including waste streams with a flow-weighted annual average water content greater than 10 percent water and waste streams that are mixed with water, or other wastes, at any time and the mixture has an annual average water content greater than 10 percent.

15. 40 C.F.R. § 61.357(a) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF to submit a report that includes, inter alia, the total annual benzene quantity from

facility waste determined in accordance with 40 C.F.R. § 61.355(a) and a table identifying each waste stream having a flow weighted annual average water content greater than 10 percent and whether the waste stream will be controlled for benzene emissions.

16. 40 C.F.R. § 61.356(b)(1) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF to maintain records for each waste stream not controlled for benzene emissions in accordance with Subpart FF including, inter alia, all test results, measurements, calculations, and specified other documentation regarding each waste stream and each waste stream's benzene content.

17. 40 C.F.R. § 61.357(c) and (d)(2) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF that has a total annual benzene quantity from facility waste equal to or greater than 1 Mg/yr to submit an annual report that, inter alia, updates the information required in 40 C.F.R. § 61.357(a)(1)-(3).

18. 40 C.F.R. § 61.357(d)(1) requires each owner or operator of a facility subject to 40 C.F.R. Part 61, Subpart FF at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr, to certify by April 7, 1993 that the equipment necessary to comply with the control requirements of Subpart FF has been installed and the required initial inspections or tests have been carried out in accordance with Subpart FF. 40 C.F.R.
§ 61.357(d)(7) requires each such owner or operator to submit a quarterly report on the performance of the equipment installed to comply with the control requirements of Subpart FF. 40 C.F.R. § 61.357(d)(8) requires each such owner or operator to submit an annual report that summarizes all

inspections required by 40 C.F.R. §§ 61.342 through 61.354 during which detectable emissions are measured or a problem that could result in benzene emissions is identified.

19. 40 C.F.R. § 61.05(c) prohibits an owner or operator of a facility from operating an existing source subject to a NESHAP standard in violation of the standard, except under a waiver or exemption granted pursuant to the CAA. Premcor was not granted a waiver or exemption to the Benzene Waste Operations NESHAP.

20. Pursuant to Section 113(a)(1)(C) and (b)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(C) and (b)(1)(B), U.S. EPA notified Defendant on September 30, 1996, that it was in violation of the Benzene Waste Operations NESHAP.

21. Pursuant to Section 113(b) of the CAA, 42 U.S.C. Section 7413(b), U.S. EPA may commence a civil action for injunctive relief and civil penalties not to exceed $25,000 per day for each violation of the CAA, including violations of any NESHAP. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Clean Air Act --
New Source Performance Standards

22. Section 111 of the Clean Air Act, 42 U.S.C. § 7411, requires U.S. EPA to promulgate standards of performance for certain categories of new air pollution sources ("New Source Performance Standards" or "NSPS").

23. Pursuant to Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), U.S. EPA promulgated general regulations applicable to all NSPS source categories. Those general regulations are set forth at 40 C.F.R. Part 60, Subpart A.

24. Pursuant to Section 111(b) of the Clean Air Act, 42 U.S.C. § 7411(b), U.S. EPA promulgated NSPS regulations applicable to petroleum refineries. Those regulations are set forth at 40 C.F.R. Part 60, Subpart J.

25. Claus sulfur recovery plants, except Claus plants of 20 long tons per day or less, for which construction or modification commenced after October 4, 1976 are subject to 40 C.F.R. Part 60, Subpart J.

26. Defendant's Claus sulfur recovery plant was constructed or modified after October 4, 1976 and is greater than 20 long tons per day, and is therefore subject to 40 C.F.R. Part 60, Subpart J.

27. 40 C.F.R. § 60.105(a)(6) requires sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems not followed by incineration to install, calibrate, maintain, and operate continuous monitoring system ("CEMS") for measuring and recording the concentration of reduced sulfur and O_2 emissions into the atmosphere.

28. 40 C.F.R. § 60.13(g) provides, inter alia, that when the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install an applicable CEMS on each separate effluent, unless fewer systems are approved by U.S. EPA.

29. 40 C.F.R. § 60.104(a)(2) prohibits sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems followed by incineration from discharging in excess of 250

ppm by volume (dry basis) of SO_2 at zero percent excess air. 40 C.F.R. § 60.104(a)(2) prohibits sulfur recovery plants subject to 40 C.F.R. Part 60, Subpart J with reduction control systems not followed by incineration from discharging in excess of 300 ppm by volume of reduced sulfur compounds and in excess of 10 ppm by volume of hydrogen sulfide, each calculated as ppm SO_2 by volume (dry basis) at zero percent excess air.

30. 40 C.F.R. § 60.11(d) requires owners and operators of facilities subject to 40 C.F.R. Part 60, Subpart J to maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

31. 40 C.F.R. § 60.7(c) requires owners or operators that are required to install CEMS pursuant to 40 C.F.R. Part 60, Subpart J to submit to U.S. EPA, on a semiannual basis, excess emission and monitoring system performance reports that identify, inter alia, periods of emissions in excess of certain emissions requirements as specified in 40 C.F.R. §§ 60.7(c) and 60.105(c)(4).

32. 40 C.F.R. § 60.8(a) requires owners or operators of facilities subject to 40 C.F.R. Part 60, Subpart J to conduct a performance test within 60 days of achieving maximum production rate, but not later than 180 days after initial startup. 40 C.F.R. § 60.106(f)(2) requires performance testing on Claus sulfur recovery plants with reduction control devices not followed by incineration be tested in accordance with Method 15 of 40 C.F.R. Part 60, Appendix A, to determine the reduced sulfur and H_2S concentration in its emissions.

33. Pursuant to Section 113(a)(1)(C) and (b)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(C) and (b)(1)(B), U.S. EPA notified Defendant on August 19, 1997, that it was in violation of the NSPS for Petroleum Refineries set forth in 40 C.F.R. Part 60, Subparts A and J.

34. Pursuant to Section 113(b) of the CAA, 42 U.S.C. Section 7413(b), U.S. EPA may commence a civil action for injunctive relief and civil penalties not to exceed $25,000 per day for each violation of the CAA, including violations of any NSPS. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Clean Air Act --
State Implementation Plan

35. Section 109 of the Clean Air Act, 42 U.S.C. § 7409, requires U.S. EPA to promulgate regulations establishing primary and secondary National Ambient Air Quality Standards ("NAAQS") for certain listed air pollutants, including ozone. The primary NAAQS shall be sufficient to protect the public health, allowing an adequate margin of safety, and the secondary NAAQS shall be sufficient to protect the public welfare from any known or anticipated adverse effects associated with the presence of the air pollutant in the ambient air. The NAAQS promulgated by the Administrator pursuant to Section 109 of the Act are set forth at 40 C.F.R. Part 50.

36. Section 110 of the CAA, 42 U.S.C. § 7410, required each state to adopt and submit to U.S. EPA for approval a State Implementation Plan ("SIP") that provides for the attainment and maintenance of the NAAQS, including the NAAQS for ozone.

37. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, portions of the Illinois SIP, including 35 Illinois Administrative Code ("I.A.C.") Part 218, have been submitted to, and approved by, U.S. EPA. 35 I.A.C. Part 218 establishes Organic Material Emission Standards and Limitations for the Chicago Area. 35 I.A.C. 218, Subpart R establishes standards for Petroleum Refining and

Related Industries, including the requirement that subject facilities establish a leak detection and repair ("LDAR") program. U.S. EPA approved 35 I.A.C. 218, Subpart R on September 9, 1994. These regulations are designed to prevent certain emissions of volatile organic compounds from petroleum refineries by requiring each valve, pump and compressor in service to be identified, monitored and repaired on a routine basis using specified procedures.

38. 35 I.A.C. § 218.447(a) requires the owner or operator of a petroleum refinery to test certain valves and seals for leaks using equipment calibrated using the methods referenced in 35 I.A.C. § 218.105(g). 35 I.A.C. § 218.105(g)(1)(D) requires calibration gases to be set at zero air (less than 10 ppm hydrocarbon in the air) and a mixture of methane or n-hexane and air at a concentration of approximately, but no less than, 10,000 ppm methane or n-hexane.

39. 35 I.A.C. § 218.445(d) provides that the owner or operator of a petroleum refinery shall identify each component subject to leak monitoring.

40. 35 I.A.C. § 218.446(a)(1) requires the owner or operator of a petroleum refinery to prepare a monitoring program that identifies all refinery components and the period in which each will be monitored.

41. 35 I.A.C. § 218.446(a)(4) provides that a monitoring program prepared pursuant to 35 I.A.C. § 218.446(a) must describe the methods to be used to identify all pipeline valves, pressure relief valves in gaseous service and all leaking components such that they are obvious to both refinery personnel performing monitoring and Agency personnel performing inspections.

42. 35 I.A.C. § 218.447(a)(2) requires the owner or operator of a petroleum refinery to test once each quarter of each calendar year, by the method referenced in 35 I.A.C. § 218.105(g), all pressure relief valves in gaseous service, pipeline valves in gaseous service and compressor seals.

43. 40 C.F.R. § 52.23 provides, inter alia, that any failure by a person to comply with any approved regulatory provision of a SIP shall render such person subject to enforcement action pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

44. Pursuant to Section 113(a)(1)(C) and (b)(1)(B) of the CAA, 42 U.S.C. § 7413(a)(1)(C) and (b)(1)(B), U.S. EPA notified Defendant on September 30, 1996, that it was in violation of applicable federally enforceable state air requirements.

45. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), U.S. EPA may commence a civil action for injunctive relief and civil penalties not to exceed $25,000 per day for each violation of the CAA, including violations of any applicable implementation plan. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Clean Water Act
Direct Discharges

46. The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States. 33 U.S.C. § 1251(a).

47. Section 301(a) of the CWA, 33 U.S.C. § 1251(a), prohibits the discharge of any pollutant into navigable waters of the United States by any person except in compliance with, inter alia, a

National Pollutant Discharge Elimination ("NPDES") permit issued by U.S. EPA or an authorized state pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

48. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that U.S. EPA or an authorized state, in issuing NPDES permits, shall prescribe conditions for such permits as the permitting authority determines are necessary to carry out the provisions of the CWA.

49. The State of Illinois is authorized by the Administrator of U.S. EPA, pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), to administer the NPDES permit program for discharges into navigable waters within its jurisdiction.

50. The Cal-Sag Channel is a "navigable water" within the meaning of Section 502(7)of the CWA, 33 U.S.C. § 1362(7).

51. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), U.S. EPA may commence a civil action for injunctive relief and civil penalties of up to $25,000 per day for each violation of the CWA, including discharges of any pollutant without, or not in compliance with the terms and conditions of, an NPDES permit. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Clean Water Act
Discharges To POTW

52. Section 307(b) of the CWA, 33 U.S.C. § 1317(b), requires the Administrator of U.S. EPA to establish pretreatment standards for existing and new sources that introduce pollutants into any

publicly-owned "treatment works" ("POTW"), as defined in Section 212(2) of the CWA, 33 U.S.C. § 1292(2).

53. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), prohibits the owner or operator of any source from operating the source in violation of any pretreatment standard after the effective date of such standard.

54. Pursuant to Section 307(b)(1) of the CWA, 33 U.S.C. § 1317(b)(1), the Administrator of U.S. EPA promulgated General Pretreatment Regulations for Existing and New Sources of Pollution. Such Standards are codified at 40 C.F.R. Part 403.

55. The provisions of 40 C.F.R. Part 403 apply to each "User" introducing pollutants into a POTW.

56. Premcor is an "Industrial User" or "User" that introduces pollutants into a POTW owned and operated by the Metropolitan Water Reclamation District of Greater Chicago ("MWRDGC"), within the meaning of 40 C.F.R. Part 403.3(h) and 403.5(b). Premcor is subject to the requirements of 40 C.F.R. Part 403.

57. Pursuant to Section 307(b) of the CWA, 33 U.S.C. § 1317(b), and 40 C.F.R. §§ 403.5(c) and 403.8, each POTW with a total design flow greater than five million gallons of water per day and which receives pollutants from industrial users subject to pretreatment standards is required to establish its own Pretreatment Program and to establish specific limits ("local limits") to implement the prohibitions in 40 C.F.R. § 403.5(a)(1) and (b).

58. Under 40 C.F.R. § 403.5(d), a POTW's local limits established pursuant to 40 C.F.R. § 403.5(c) are deemed to be pretreatment standards for the purposes of Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

59. In accordance with 40 C.F.R. §§ 403.5(c) and 403.8, the Metropolitan Sanitary District of Greater Chicago, and its successor, the MWRDGC, developed and submitted to U.S. EPA for approval a local pretreatment program, including local limits governing discharges into sewerage systems under the jurisdiction of the MWRDGC. Such local limits are set forth in Appendix B to the "Sewage and Waste Control Ordinance," as promulgated by the Metropolitan Sanitary District of Greater Chicago, and further amended by the MWRDGC ("MWRDGC Ordinance" or "Ordinance").

60. Pursuant to 40 C.F.R. § 403.9, U.S. EPA approved a local pretreatment program for POTWs owned or operated by the MWRDGC. MWRDGC is a "Control Authority" within the meaning of 40 C.F.R. §§ 403.6(e) and 403.12(a).

61. In accordance with 40 C.F.R. § 403.5(d), the effluent limits established in Appendix B of the MWRDGC Ordinance are federally enforceable pretreatment standards for purposes of Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

62. Pursuant to Section 307(b)(1) of the CWA, 33 U.S.C. § 1317(b)(1), the Administrator of U.S. EPA promulgated categorical pretreatment standards applicable to discharges of process wastewater to POTWs from various categories of industrial sources, including the Petroleum Refinery Point Source Category. Pretreatment standards applicable to various petroleum refinery sources are codified at 40 C.F.R. Part 419.

63. Effluent limits applicable to process wastewater discharges from facilities that produce petroleum products by the use of cracking, one of several subcategories in the Petroleum Refinery Point Source Category, are set forth in Subpart B of 40 C.F.R. Part 419. Standards for facilities regulated under the cracking subcategory that were in existence at the time the rule was promulgated, called Pretreatment Standards for Existing Sources ("PSES"), are set forth at 40 C.F.R. § 419.25. Existing sources within the cracking subcategory were required to comply with PSES effluent limitations by October 18, 1985, three years after promulgation of the regulations.

64. At the time of promulgation of the Petroleum Refinery Point Source Category regulations, Defendant's Blue Island Refinery was an existing facility refining crude oil into crude using the cracking process.

65. On various occasions from 1993 to the present date, Defendant discharged process wastewater that resulted from the production of petroleum using the cracking process at the Blue Island Refinery into a POTW operated by the MWRDGC. Throughout this period, the Facility was subject to the Pretreatment Standards for Existing Sources contained in Subpart B of the Petroleum Refinery Point Source Category regulations, 40 C.F.R. Part 419.

66. On June 30, 1994, MWRDGC issued Discharge Authorization ("DA") 13468-1 to Defendant. DA 13468-1 had an effective date of June 30, 1994 and an expiration date of June 29, 1997, which was administratively extended to December 29, 1997. DA 13468-1 incorporates the federal categorical requirements and the local limits applicable to the Facility. DA 13468-1 contains effluent limitations for discharges at Outlets 1A and 3A.

67. Pursuant to 40 C.F.R. § 403.12(e), Industrial Users subject to categorical pretreatment standards are required to submit to the Control Authority, on a periodic basis, reports known as "Continued Compliance Reports," which include information on the nature and concentration of pollutants discharged. Pursuant to 40 C.F.R. § 403.12(e) and the MWRDGC Ordinance, Defendant was required to submit such Continued Compliance Reports to MWRDGC in June and December of each year.

68. Section F(1) of DA 13468-1 provides that Defendant must report all violations identified as a result of self monitoring to MWRDGC by telephone within 24 hours of the time Defendant becomes aware of such violation. In addition, 40 C.F.R. § 403.12(g)(2) provides that if sampling performed by an Industrial User indicates a violation of an effluent standard, the Industrial User must notify the Control Authority within 24 hours of becoming aware of a violation.

69. Section F(2) of DA 13468-1 provides that Defendant must submit all self-monitoring discharge analytical data to the Director of MWRDGC's Research and Development Department. In addition, 40 C.F.R. § 403.12(g)(5) provides that if an Industrial User subject to the reporting requirements in 40 C.F.R. § 403.12(e) monitors any pollutant more frequently than required by the Control Authority, the results of the monitoring must be included in the report, regardless of whether or not the data is in addition to the minimum reporting requirements.

70. Pursuant to 40 C.F.R. § 403.12(d), within 90 days of the deadline for final compliance with a categorical pretreatment standard, each Industrial User subject to such standard is required to submit to the Control Authority a report, known as a "Final Compliance Report," containing the information set forth in 40 C.F.R. § 403.12(b)(4)-(6). 40 C.F.R. § 403.12(b)(6) requires the

Industrial User to include a statement, reviewed by an authorized representative of the Industrial User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards.

71. The MWRDGC Ordinance and DA 13468-1 require each Industrial User to include in each Continued Compliance Report a statement, reviewed by an authorized representative of the Industrial User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards.

72. Section C, Item 4 of DA 13468-1 requires each Industrial User subject to the terms and conditions of the Ordinance to install and maintain, at its own expense, pretreatment facilities adequate to prevent a violation of the pollutant concentration limits, discharge prohibitions, or performance criteria of the Ordinance.

73. Defendant is, and at all pertinent times has been, an "Industrial User" of a POTW under the jurisdiction of the MWRDGC, within the meaning of Section 502(18) of the CWA, 33 U.S.C. § 1362(18), 40 C.F.R. § 403.3(h), and Article II of the MWRDGC Ordinance. Defendant also is, and at all pertinent times has been, a "Significant Industrial User" of a POTW, within the meaning of 40 C.F.R. § 403.3(t).

74. 40 C.F.R. § 403.17(d) prohibits, except in limited circumstances not relevant to this complaint, the intentional diversion of waste streams from any portion of an Industrial User's treatment facility, known as a "bypass."

75. 40 C.F.R. § 403.17(c) requires an Industrial User to submit prior notice of the need to bypass the wastewater treatment facility to the Control Authority if the Industrial User knows in advance of the need for a bypass.

76. Defendant is an owner or operator of a source that is subject to an effluent standard or prohibition or pretreatment standard under Section 307 of the CWA, within the meaning of Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

77. Section 309(a)(3), (b), and (d) of the CWA, 33 U.S.C. § 1319(a)(3), (b), and (d), authorizes the United States to commence an action for appropriate relief, including a permanent or temporary injunction and civil penalties not to exceed $25,000 per day for each violation, when any person is in violation of the pretreatment requirements under Section 307 of the CWA, 33 U.S.C. § 1317, including any violation of local limits established pursuant to 40 C.F.R. § 403.5(c) and federal categorical limits established pursuant to 40 C.F.R. Part 419. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Clean Water Act
Discharges of Oil or Hazardous Substances

78. Section 311(b)(3) of the CWA, 33 U.S.C. §1321(b)(3), prohibits the discharge of oil or hazardous substances into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.

79. Section 311(b)(5) of the CWA, 33 U.S.C. §1321(b)(5), requires any person in charge of a vessel or facility that discharges oil or hazardous substances in violation of Section 311(b)(3) of the CWA, 33 U.S.C. §1321(b)(3), to immediately notify the appropriate agency of the United States government of such discharge.

80. U.S. EPA has promulgated regulations implementing Section 311(b)(3) and (b)(5) of the CWA, 33 U.S.C. §1321(b)(3) and (b)(5), at 40 C.F.R. Part 110.

81. 40 C.F.R. § 110.3 provides that for the purposes of Section 311(b)(3) of the CWA, 33 U.S.C. §1321(b)(3), discharges of oil that may be harmful to the public health or welfare of the United States include, inter alia, discharges of oil that violate applicable water quality standards or cause a film or sheen upon or discoloration of the water or adjoining shorelines.

82. 40 C.F.R. § 110.10 provides that the notification of a prohibited discharge required by Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5), must be made to the National Response Center.

83. Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), provides that the President shall issue regulations establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges.

84. U.S. EPA has promulgated regulations implementing Section 311(j)(1)(C) of the CWA, 33 U.S.C. § 1321(j)(1)(C), at 40 C.F.R. Part 112, including regulations requiring non-transportation related onshore and offshore facilities to prepare, implement and maintain Spill Prevention Control and Countermeasures ("SPCC") plans.

85. The Blue Island Refinery is an "onshore" facility as defined in Section 311(a)(11) of the CWA, 33 U.S.C. § 1321(a)(11), and 40 C.F.R. § 112.2. The Facility is "non-transportation related" under the definition incorporated by reference at 40 C.F.R. § 112.2 and 40 C.F.R. Part 112, Appendix A.

86. 40 C.F.R. § 112.3 provides that owners and operators of facilities that have discharged, or because of their location could reasonably be expected to discharge, oil in harmful quantities into the navigable waters of the United States to prepare a Spill Prevention and Countermeasures Plan ("SPCC Plan"). 40 C.F.R. § 112.3(e) provides that owners and operators for which an SPCC Plan is required to maintain a complete copy of the SPCC Plan at the facility if the facility is normally attended at least eight hours per day, and shall make the SPCC Plan available to the Regional Administrator for on-site review during normal working hours.

87. Premcor has discharged, or because of its location could reasonably be expected to discharge, oil in harmful quantities into the navigable waters of the United States.

88. Premcor's Blue Island Refinery is normally attended at least eight hours per day.

89. 40 C.F.R. § 112.7 provides that if the SPCC Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items should be discussed in separate paragraphs, and the details of installation and operational start-up should be explained separately. 40 C.F.R. § 112.5(a) provides that owners and operators of subject facilities must amend their SPCC Plan when there is a change in facility design, construction, operation, or maintenance, and fully implement the SPCC plan as soon as possible, but not later than six months after the change occurs.

90. 40 C.F.R. § 112.5(b) provides that owners and operators of facilities that are required to prepare SPCC plans shall complete a review and evaluation of the SPCC Plan at least once every three years from the date the facility becomes subject to 40 C.F.R. Part 112.

91. 40 C.F.R. § 112.4 provides that a facility that has discharged oil in harmful quantities, as defined in 40 C.F.R. Part 110, into or upon the navigable waters of the United States or adjoining shorelines in two spill events, reportable under Section 311(b)(5) of the CWA, 33 U.S.C. § 1321(b)(5), occurring within any twelve month period must submit the information listed in 40 C.F.R. § 112.4(a)(1)-(11) to the Regional Administrator within 60 days of the date the facility becomes subject to this subsection.

92. On numerous occasions since at least 1994, including but not limited to March 28, 1994 and May 4, 1994, Defendant discharged reportable amounts of oil twice within a twelve month period.

93. 40 C.F.R. § 112.7(e) requires a facility's SPCC Plan to address, inter alia, the following guidelines:

a. 40 C.F.R. § 112.7(e)(2)(ii): all bulk storage tank installations should be constructed so that a secondary means of containment is provided for the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation. In addition, all diked areas should be sufficiently impervious to contain spilled oil.

b. 40 C.F.R. § 112.7(e)(2)(x): visible oil leaks that result in a loss of oil from tank seams, gaskets, rivets and bolts sufficiently large to cause the accumulation of oil in diked areas should be promptly corrected.

c. 40 C.F.R. § 112.7(e)(2)(xi): mobile or portable oil storage tanks should be positioned or located so as to prevent spilled oil from reaching navigable waters. This section further requires that a secondary means of containment, such as dikes or catchment basins, should be furnished for the largest single compartment or tank and that these facilities should be located where they will not be subject to periodic flooding or washout.

d. 40 C.F.R. § 112.7(e)(3)(iii): pipe supports should be properly designed to minimize abrasion and corrosion and allow for expansion and contraction.

e. 40 C.F.R. § 112.7(e)(3)(v): vehicular traffic granted entry into the facility should be warned verbally or by appropriate signs to ensure that the vehicle, because of its size, will not endanger above ground piping.

94. Pursuant to Section 311(b)(7) and (e)(2) of the CWA, 33 U.S.C. § 1321(b)(7), U.S. EPA may commence a civil action for civil penalties of up to $1,000 per barrel of oil or unit of reportable quantity of hazardous substances discharged or $25,000 per day for each violation of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), and for civil penalties of up to $25,000 per day of violation of any regulation issued under Section 311(j) of the CWA, 33 U.S.C. §1321(j). Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Resource Conservation and Recovery Act

95. RCRA establishes a comprehensive statutory scheme for the management of hazardous wastes from their initial generation until their final disposal. Regulations promulgated pursuant to RCRA regulate generators of hazardous wastes, as well as owners and operators of facilities that treat, store,

or dispose of hazardous wastes ("TSD facilities"). The federal regulations implementing RCRA are codified at 40 C.F.R. Part 260 et seq.

96. Premcor is the owner and operator of a "facility" within the meaning of 35 I.A.C. § 720.110.

97. Under Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, any state may apply for and receive authorization to enforce its own hazardous waste management program in place of the federal hazardous waste management program described in the preceding paragraph, provided the state requirements are consistent with and equivalent to the federal requirements. To the extent that the state hazardous waste program is authorized by U.S. EPA pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the requirements of the state program are effective in lieu of the federal hazardous waste management program set forth in 40 C.F.R. Part 260 et seq.

98. Illinois has promulgated hazardous waste management regulations at 35 I.A.C. Part 700 et seq., and received authorization from U.S. EPA on January 31, 1986, to administer various aspects of the hazardous waste management program within Illinois.

99. Generators of hazardous waste are subject to the regulations codified at 35 I.A.C. Part 722.

100. From at least 1980 to the present, Defendant has generated at its Facility hazardous wastes within the meaning of 35 I.A.C. Part 721 and 40 C.F.R. Part 261. Defendant is therefore subject to the regulations applicable to generators of hazardous waste set forth in 35 I.A.C. Part 722.

101. 35 I.A.C. § 722.134(a)(1) and 725.273 require that containers holding hazardous waste be kept closed at all times, except when waste is being added or removed.

102. 35 I.A.C. § 722.134(a)(2) requires that a generator of hazardous waste who accumulates hazardous waste on-site in containers clearly mark each such container with the date upon which each period of accumulation begins.

103. 35 I.A.C. § 722.134(a)(3) requires that a generator of hazardous waste who accumulates hazardous waste on-site in containers or tanks must clearly label or mark each such container or tank with the words, "Hazardous Waste."

104. 35 I.A.C. § 728.107 requires generators of waste restricted from land disposal under 35 I.A.C. Part 728, when shipping such waste off-site, to send to the TSD facility receiving the waste a written notice that includes the following information: the U.S. EPA hazardous waste number; the appropriate treatment standards; the manifest number associated with the shipment of waste; and waste analysis data. The generator must retain on-site a copy of all such notifications as required in the regulations.

105. 35 I.A.C. § 725.131, as referenced by 35 I.A.C. § 722.134(a)(4), requires generators of hazardous waste to maintain and operate their facilities to minimize the possibility of a fire, explosion or any unplanned release of hazardous waste or hazardous waste constituents to air, soil or surface water that could threaten human health or the environment.

106. 40 C.F.R. § 265.1084(a)(2) requires a generator of hazardous waste to determine the average volatile organic ("VO") concentration of a hazardous waste at the point of waste origination using either direct measurement or by knowledge.

107. Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and 35 I.A.C. Part 703 generally prohibit the operation of a TSD facility or hazardous waste management unit ("HWMU") except in

accordance with a permit issued pursuant to RCRA, unless the facility has interim status. 35 I.A.C. § 703.121 specifically prohibits hazardous waste treatment, hazardous waste storage, or hazardous waste disposal without a RCRA permit for a hazardous waste management facility.

108. Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), 40 C.F.R. § 270.70, and 35 I.A.C. § 703.153 provide that a TSD facility in existence on November 19, 1980, that has not yet received a RCRA permit, may obtain interim status by (1) filing a timely notice that the facility is treating, storing, or disposing of hazardous waste pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, and (2) filing a timely Part A application pursuant to Section 3005 of RCRA, 42 U.S.C. § 6925, 40 C.F.R. § 270.10, and 35 I.A.C. §§ 703.150 and 703.152.

109. Defendant submitted a permit application to operate as a TSD facility at the Blue Island Refinery to IEPA signed November 17, 1980. On February 18, 1988, Defendant requested a withdrawal of its TSD permit and a return to generator status. IEPA approved the withdrawal request on February 18, 1994.

110. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), the United States is authorized, upon notification to the State of Illinois, to enforce the regulations which comprise the federally approved Illinois hazardous waste management program.

111. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that when any person has violated or is in violation of any requirement of RCRA, including provisions of a federally approved state hazardous waste management program, the Administrator of U.S. EPA may commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

112. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), provides that any person who violates a requirement of RCRA shall be liable for a civil penalty of up to $25,000 per day for each violation. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for each violation may be assessed for violations occurring on or after January 30, 1997.

Comprehensive Environmental Response,
Compensation and Liability Act

113. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires a person in charge of a facility to immediately notify the National Response Center of a release of a hazardous substance from such facility in an amount equal to or greater than the amount determined pursuant to Section 102 of CERCLA, 42 U.S.C. § 9602 (the "reportable quantity").

114. Section 109(c)(1) of CERCLA, 42 U.S.C. § 9609(c)(1), provides that any person who violates the notice requirements of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), shall be liable to the United States for civil penalties in an amount not to exceed $25,000 per day for each day the violation continues, and in an amount not to exceed $75,000 per day for each day that any second or subsequent violation continues. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for the first violation, and $82,500 per day for any second or subsequent violations, may be assessed for violations occurring on or after January 30, 1997.

Emergency Planning and Community Right-to-Know Act

115. Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), requires the owner and operator of a facility at which a hazardous chemical is produced, used, or stored, to immediately notify the State

Emergency Response Commission ("SERC") and the Local Emergency Planning Committee ("LEPC") of certain specified releases of a hazardous or extremely hazardous substance.

116. Section 304(c) of EPCRA, 42 U.S.C. § 11004(c), requires that, as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), the owner or operator shall provide a written follow-up emergency notice providing certain specified additional information.

117. Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), provides that any person who violates any requirement of Section 304 of EPCRA, 42 U.S.C. § 11004, shall be liable to the United States for civil penalties in an amount not to exceed $25,000 per day for each day the violation continues, and in an amount not to exceed $75,000 per day for each day that any second or subsequent violation continues. Pursuant to Pub. L. 104-134 and 61 Fed. Reg. 69,360, civil penalties of up to $27,500 per day for the first violation, and $82,500 per day for any second or subsequent violations, may be assessed for violations occurring on or after January 30, 1997.

FIRST CLAIM FOR RELIEF
(CAA/NESHAP)
Failure To Manage and Treat Wastes

118. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 above.

119. Since April 5, 1993, Defendant has failed to manage and treat the Blue Island Refinery's waste pursuant to the requirements of 40 C.F.R. §§ 61.342(c) - (e), as required by 40 C.F.R. § 61.342(b).

120. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.342(b) of the Benzene Waste Operations NESHAP and of the CAA.

121. Unless restrained by an Order of the Court, Premcor may continue to violate the Benzene Waste Operations NESHAP and the CAA.

122. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

SECOND CLAIM FOR RELIEF
(CAA/NESHAP)
Failure To Determine Annual Benzene Quantity for Each Waste Stream

123. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 122, above.

124. Since April 5, 1993, Defendant has failed to calculate the annual benzene quantity for each waste stream that has a flow-weighted annual average water content greater than 10 percent.

125. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.355(a)(1) of the Benzene Waste Operations NESHAP and of the CAA.

126. Unless restrained by an Order of the Court, Premcor may continue to violate the Benzene Waste Operations NESHAP and the CAA.

127. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

THIRD CLAIM FOR RELIEF
(CAA/NESHAP)
Failure To Report Annual Benzene Quantity for Each Covered Waste Stream

128. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 127, above.

129. Since April 5, 1993, Defendant has failed to identify each benzene waste stream having a flow-weighted annual average water content greater than 10 percent in its reports submitted pursuant to

40 C.F.R. § 61.357. As a result, Defendant has failed since at least 1993 to report accurately the total annual benzene quantity from the Blue Island Refinery's waste.

130. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.357(a) of the Benzene Waste Operations NESHAP and of the CAA.

131. Unless restrained by an Order of the Court, Premcor may continue to violate the Benzene Waste Operations NESHAP and the CAA.

132. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day of each violation occurring on or after January 30, 1997.

FOURTH CLAIM FOR RELIEF
(CAA/NESHAP)
Failure To Maintain Records

133. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 132, above.

134. Since April 5,1993, Defendant has failed to maintain certain records for each waste stream not controlled for benzene emissions in accordance with Subpart FF including, inter alia, all test results, measurements, calculations, and specified other documentation regarding each waste stream and each waste stream's benzene content.

135. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.356(b)(1) of the Benzene Waste Operations NESHAP and of the CAA.

136. Unless restrained by an Order of the Court, Premcor may continue to violate the Benzene Waste Operations NESHAP and the CAA.

137. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

FIFTH CLAIM FOR RELIEF
(CAA/NESHAP)
Late Submission of Annual Reports

138. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 137, above.

139. Defendant submitted its initial report required by 40 C.F.R. § 61.357 on April 5, 1993. Thereafter, Defendant submitted its annual reports required by 40 C.F.R. § 61.357 on June 1, 1994, January 18, 1995, and March 12, 1996.

140. The 1994 report was submitted 57 days late. The 1996 report was submitted 53 days late.

141. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.357 of the Benzene Waste Operations NESHAP and of the CAA.

142. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Premcor is liable for a civil penalty of up to $25,000 per day for each violation of the CAA.

SIXTH CLAIM FOR RELIEF
(CAA/NESHAP)
Failure To Submit Equipment Certification and Performance Reports

143. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 142, above.

144. Since April 5, 1993, Defendant has failed to submit the equipment certification and performance reports required by 40 C.F.R. § 61.357(d)(1), (d)(7) and (d)(8).

145. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 61.357(d) of the Benzene Waste Operations NESHAP and of the CAA.

146. Unless restrained by an Order of the Court, Premcor may continue to violate the Benzene Waste Operations NESHAP and the CAA.

147. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

SEVENTH CLAIM FOR RELIEF
(CAA/NSPS)
Exceedance of Emission Limit

148. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 147, above.

149. From at least February 24, 1995 to at least July 12, 1996, Defendant discharged in excess of 250 ppm by volume (dry basis) of SO_2 at zero percent excess air.

150. On numerous occasions from at least October 4, 1994 to at least September 1, 1997, Defendant discharged in excess of 10 ppm by volume of hydrogen sulfide from its Claus sulfur recovery plant, calculated as ppm SO_2 by volume (dry basis) at zero percent excess air.

151. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.104(a)(2) of the NSPS and of the CAA.

152. Unless restrained by an Order of the Court, Premcor may continue to violate the NSPS and the CAA.

153. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

EIGHTH CLAIM FOR RELIEF
(CAA/NSPS)
Failure to Operate and Maintain Affected Facility

154. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 153, above.

155. From at least February 24, 1995 to at least July 12, 1996, Defendant operated the Claus sulfur recovery plant while the Stretford unit was not operating, and therefore failed to maintain and operate its Claus sulfur recovery plant, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions.

156. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.11(d) of the NSPS and of the CAA.

157. Unless restrained by an Order of the Court, Premcor may continue to violate the NSPS and the CAA.

158. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

NINTH CLAIM FOR RELIEF
(CAA/NSPS)
Failure to Install and Operate a CEMS for Claus Sulfur Recovery Plant

159. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 158, above.

160. Since at least 1993, Defendant has failed to install, calibrate, maintain, and operate a CEMS for measuring and recording the concentration of reduced sulfur and O_2 emissions into the atmosphere from each Claus sulfur recovery plant effluent point.

161. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. §§ 60.105(a)(6) and 60.13(g) of the NSPS and of the CAA.

162. Unless restrained by an Order of the Court, Premcor may continue to violate the NSPS and the CAA.

163. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TENTH CLAIM FOR RELIEF
(CAA/NSPS)
Failure to Submit Excess Emissions Reports

164. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 163, above.

165. Since at least 1993, Defendant has failed to submit to U.S. EPA excess emission and monitoring system performance reports for its Claus sulfur recovery plant that identify periods of emissions in excess of certain emissions requirements as specified in 40 C.F.R. §§ 60.7(c) and 60.105(a)(4).

166. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.7(c) of the NSPS and of the CAA.

167. Unless restrained by an Order of the Court, Premcor may continue to violate the NSPS and the CAA.

168. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

ELEVENTH CLAIM FOR RELIEF
(CAA/NSPS)
Failure to Conduct Emissions Test

169. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 168, above.

170. Since at least 1993, Defendant has failed to conduct a performance test as required in 40 C.F.R. § 60.8(a).

171. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 60.8(a) of the NSPS and of the CAA.

172. Unless restrained by an Order of the Court, Premcor may continue to violate the NSPS and the CAA.

173. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWELFTH CLAIM FOR RELIEF
(CAA/SIP)
Components Not Identified

174. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 173, above.

175. From at least September 19 to 22, 1995, Defendant failed to identify each component of the Blue Island Refinery that is subject to leak monitoring. Specifically, on an inspection conducted from September 19 to 22, 1995, Defendant failed to identify 928 components that were subject to leak monitoring.

176. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 218.445(d), the Illinois SIP, and the CAA.

177. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Premcor is liable for a civil penalty of up to $25,000 per day for each violation of the CAA.

THIRTEENTH CLAIM FOR RELIEF

(CAA/SIP)
Failure To Identify Components in Monitoring Program

178. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 177, above.

179. From September 1994 to at least October 1995, Defendant did not identify all refinery components and the period in which each were to be monitored in its monitoring program.

180. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 218.446(a), the Illinois SIP, and the CAA.

181. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Premcor is liable for a civil penalty of up to $25,000 per day for each violation of the CAA.

FOURTEENTH CLAIM FOR RELIEF
(CAA/SIP)
Incorrect Calibration Gas Setting

182. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 181, above.

183. On numerous occasions prior to September 18, 1995, Defendant set calibration gases at zero air and a mixture of n-hexane and air at a concentration of 500 ppm n-hexane.

184. The acts or omissions referred to in the preceding paragraph constitute a violation of 35 I.A.C. § 218.447(a), the Illinois SIP, and the CAA.

185. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Premcor is liable for a civil penalty of up to $25,000 per day for each violation for its violation of the CAA.

FIFTEENTH CLAIM FOR RELIEF
(CAA/SIP)

Failure To Test Quarterly

186. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 45 and 118 through 185, above.

187. Since at least 1995, Defendant has failed to test once each calendar quarter, by the method referenced in 35 I.A.C. § 218.105(g), numerous pressure relief valves in gaseous service, pipeline valves in gaseous service and compressor seals.

188. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 218.447(a)(2), the Illinois SIP, and the CAA.

189. Unless restrained by an Order of the Court, Premcor may continue to violate 35 I.A.C. § 218.447(a)(2), the Illinois SIP, and the CAA.

190. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

SIXTEENTH CLAIM FOR RELIEF
(CWA)
Discharge of Pollutants Without an NPDES Permit

191. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 46 through 94, above.

192. On numerous occasions since at least 1993, Defendant has discharged pollutants into the waters of the United States without an NPDES permit issued by U.S. EPA or the State of Illinois.

193. The acts or omissions referred to in the preceding paragraph constitute violations of the CWA.

194. Unless restrained by an Order of the Court, Premcor may continue to violate the CWA.

195. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

SEVENTEENTH CLAIM FOR RELIEF
(CWA)
Exceedance of Effluent Limits

196. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 195, above.

197. Since at least January 18, 1994, Defendant has caused or allowed "pollution" or the discharge of "sewage," "industrial waste" or "other wastes" from the Facility into a "sewerage system" under the jurisdiction of the MWRDGC, within the meaning of Article II and Article III, Section 1 of the MWRDGC Ordinance.

198. On numerous occasions since at least January 18, 1994, discharges from Defendant's Facility to a sewerage system under the jurisdiction of the MWRDGC exceeded the pollutant concentration limits set forth in Section 1 of Appendix B to the MWRDGC Ordinance and the federal categorical pretreatment standards set forth in 40 C.F.R. § 419.25, both of which are set forth in Discharge Authorization ("DA") 13468-1, including criteria or standards applicable to discharges of fats, oils and greases, ammonia, and mercury. In addition, on numerous occasions since at least

January 27, 1994, discharges from Defendant's Facility to a sewerage system under the jurisdiction of the MWRDGC did not conform to criteria or effluent quality standards in Appendix B of the MWRDGC Ordinance governing the acidity or alkalinity ("pH") of discharges.

199. The acts or omissions referred to in the preceding paragraph constitute violations of DA 13468-1, Article III, Section 1 of the MWRDGC Ordinance, the limits in Appendix B to the Ordinance, 40 C.F.R. §§ 403.5(d) and 419.25, and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

200. Unless restrained by an Order of the Court, Premcor may continue to violate DA 13468-1, Article III, Section 1 of the MWRDGC Ordinance, the limits in Appendix B to the Ordinance, 40 C.F.R. §§ 403.5(d) and 419.25, and the CWA.

201. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

EIGHTEENTH CLAIM FOR RELIEF
(CWA)
Failure to Maintain Pretreatment Equipment

202. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 201, above.

203. Since at least 1994, Defendant has failed to install and/or maintain pretreatment facilities, including its dissolved air floatation ("DAF") skimmer and aerator, adequately to prevent violations of pollutant concentration limits.

204. The acts or omissions referred to in the preceding paragraph constitute violations of Section C, Item 4 of DA 13468-1 and the CWA.

205. Unless restrained by an Order of the Court, Premcor may continue to violate Section C, Item 4 of DA 13468-1 and the CWA.

206. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

NINETEENTH CLAIM FOR RELIEF
(CWA)
Unpermitted Bypass of Wastewater Treatment Facility

207. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 206, above.

208. The wastewater flow system of Premcor's treatment facility is designed such that a portion of the Blue Island Refinery's process wastewater can be diverted from the Facility's wastewater treatment system during high flow conditions, such as rain events.

209. On numerous occasions since at least 1993, Defendant has intentionally diverted, or bypassed, untreated process wastewater away from its wastewater treatment system to the MWRDGC.

210. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 403.17(d) and the CWA.

211. Unless restrained by an Order of the Court, Premcor may continue to violate 40 C.F.R. § 403.17(d) and the CWA.

212. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTIETH CLAIM FOR RELIEF
(CWA)
Failure to Provide Notice of Bypass of Wastewater Treatment Facility

213. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 212, above.

214. On numerous occasions since at least 1993, Defendant has diverted untreated process wastewater from its wastewater treatment system to MWRDC without providing notice of the bypass to MWRDGC.

215. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 403.17(c) and the CWA.

216. Unless restrained by an Order of the Court, Premcor may continue to violate 40 C.F.R. § 403.17(c) and the CWA.

217. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-FIRST CLAIM FOR RELIEF
(CWA)
Standards Relating to Fire, Explosion or Worker Health and Safety

218. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 217, above.

219. On numerous occasions since 1993, Defendant has introduced into a POTW pollutants that create a fire or explosion hazard in the POTW, and/or pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

220. The acts referred to in the preceding paragraph constitute violations of 40 C.F.R. § 403.5(b) and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

221. On numerous occasions since at least 1993, discharges from Defendant's Facility to a sewerage system under the jurisdiction of the MWRDGC contained liquids, solids and/or gases that by reason of their nature and quantity, were sufficient to cause fire or explosion or be injurious in any other way to the sewerage system or to the operation of water reclamation facilities, or such discharges contained noxious or malodorous liquids, gases or substances sufficient to create a hazard to life, cause injury or prevent entry into the sewer for maintenance or repair.

222. The acts referred to in the preceding paragraph constitute violations of Appendix B, Section 2 of the MWRDGC Ordinance and Section 307(d) of the CWA, 33 U.S.C. § 1317(d).

223. Unless restrained by an Order of the Court, Premcor may continue to violate the CWA.

224. Pursuant to Section 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), and Pub. L. 104-134 and 61 Fed. Reg. 69,360 (December 31, 1996), Premcor is liable for injunctive relief and

(1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-SECOND CLAIM FOR RELIEF
(CWA)
Discharge of Oil into Navigable Waters of the United States

225. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 224, above.

226. On numerous occasions since at least 1993, Defendant has discharged oil into the navigable waters in such quantities that violate applicable water quality standards or cause a film or sheen upon or discoloration of the water or adjoining shorelines.

227. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 110.3 and the CWA.

228. As a result of Defendant's violations of 40 C.F.R.§ 110.3 and the CWA, Premcor is liable for (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-THIRD CLAIM FOR RELIEF
(CWA)
Failure to Submit Spill Notifications to the Regional Administrator

229. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 228, above.

230. On numerous occasions since at least May 4, 1994, Defendant has failed to provide spill notifications containing the information listed in 40 C.F.R. § 112.4(a)(1)-(11) to the Regional Administrator.

231. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 112.4 and the CWA.

232. As a result of Defendant's violations of 40 C.F.R. § 112.4 and the CWA, Premcor is liable for (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-FOURTH CLAIM FOR RELIEF
(CWA)
Failure to Maintain a Copy of the SPCC Plan at the Facility

233. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 232, above.

234. On August 11, 1994, Defendant did not maintain a complete copy of its SPCC Plan at the Blue Island Refinery, and the SPCC Plan was not available for on-site review during normal working hours.

235. The acts or omissions referred to in the preceding paragraph constitute violations of the 40 C.F.R. § 112.3(e) and the CWA.

236. As a result of Defendant's violations of 40 C.F.R. § 112.3(e) and the CWA, Premcor is liable for a civil penalty of up to $25,000 per day for each violation.

TWENTY-FIFTH CLAIM FOR RELIEF
(CWA)
Failure to Implement the SPCC Plan

237. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 236, above.

238. Defendant amended its SPCC Plan on or around September 19, 1994.

239. The September 19, 1994 SPCC Plan provided that "Clark will investigate secondary containment modifications to provide secondary containment for each tank sufficient to contain the capacity of the largest tank in the containment area plus precipitation . . . . Modifications will be implemented to provide each tank with containment adequate to contain the entire capacity of the tank plus rainfall, or contingency plans will be developed for tanks with containment areas that cannot be modified appropriately." The September 19, 1994 SPCC Plan also provided, among other things, that "[p]ipe supports for aboveground installations should be designed to minimize abrasion and corrosion and allow pipe expansion and contraction."

240. Defendant failed to implement the September 19, 1994 SPCC Plan requirements set forth in the previous paragraph within six months of the date the SPCC Plan was amended.

241. The acts or omissions referred to in the preceding paragraph constitute violations of the 40 C.F.R. § 112.5 and the CWA.

242. As a result of Defendant's violations of 40 C.F.R. § 112.5 and the CWA, Premcor is liable for (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-SIXTH CLAIM FOR RELIEF
(CWA)
Failure to Address SPCC Plan Guidelines

243. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 242, above.

244. Since at least September 19, 1994, Defendant's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(2)(ii), specifying that all diked areas should be sufficiently impervious to contain spilled oil.

245. Since at least September 19, 1994, Defendant's SPCC Plan failed include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(2)(x), specifying that visible oil leaks which result in a loss of oil from tank seams, gaskets, rivets, and bolts sufficiently large to cause the accumulation of oil in diked areas should be promptly corrected.

246. Since at least September 19, 1994, Defendant's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(2)(xi), specifying that mobile or portable oil storage tanks should be positioned or located so as to prevent spilled oil from reaching navigable waters and that a secondary means of containment should be furnished for the largest single compartment or tank.

247. Since at least September 19, 1994, Defendant's SPCC Plan failed to include a complete discussion of conformance with the guideline set forth at 40 C.F.R. § 112.7(e)(3)(v), specifying that vehicular traffic granted entry into the Facility should be warned verbally or by appropriate signs to be sure that the vehicles, because of their size, do not endanger above-ground piping.

248. The acts or omissions referred to in the preceding four paragraphs constitute violations of the 40 C.F.R. § 112.7(e) and the CWA.

249. As a result of Defendant's violations of 40 C.F.R. § 112.7(e) and the CWA, Premcor is liable for (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-SEVENTH CLAIM FOR RELIEF
(CWA)
Failure to Review the SPCC Plan

250. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 46 through 94, and 191 through 249, above.

251. Defendant completed a review of the SPCC Plan for the Blue Island Refinery on or around August 20, 1990. Defendant completed the next review of the SPCC Plan for the Blue Island Refinery on or around September 19, 1994. Defendant completed a further of the SPCC Plan for the Blue Island Refinery on or around July 1, 1998.

252. For at least the periods from August 20, 1993 to September 18, 1994 and from September 20, 1997 to June 30, 1998, Defendant failed to review the SPCC Plan for the Facility.

253. The acts or omissions referred to in the preceding paragraph constitute violations of the 40 C.F.R. § 112.5(b) and the CWA.

254. As a result of Defendant's violations of 40 C.F.R. § 112.5(b) and the CWA, Premcor is liable for (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

TWENTY-EIGHTH CLAIM FOR RELIEF
(RCRA)
Failure to Keep Containers Closed

255. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 95 through 112, above.

256. On at least March 20, 1997, Defendant failed to keep a container holding hazardous waste at the Facility closed when waste was not being added or removed.

257. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. §§ 722.134(a)(1) and 725.273 of the federally approved hazardous waste management program for the State of Illinois.

258. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Premcor is liable for a civil penalty of up to $25,000 per day for each violation.

TWENTY-NINTH CLAIM FOR RELIEF
(RCRA)
Failure to Date and Mark Hazardous Waste Containers

259. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 258, above.

260. On at least March 3, 1997, Defendant accumulated hazardous waste on-site in a container without clearly marking the container with the date upon which the period of accumulation began.

261. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 722.134(a)(2) of the federally approved hazardous waste management program for the State of Illinois.

262. On at least March 3, 1997, Defendant accumulated hazardous waste on-site in a container without clearly labeling or marking the container with the words, "Hazardous Waste."

263. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 722.134(a)(3) of the federally approved hazardous waste management program for the State of Illinois.

264. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Premcor is liable for a civil penalty of up to $25,000 per day for each violation.

THIRTIETH CLAIM FOR RELIEF
(RCRA)
Failure to Complete Land Disposal Restriction Notifications

265. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 264, above.

266. On numerous occasions since at least 1994, Defendant, when shipping waste off-site that is restricted from land disposal under 35 I.A.C. Part 728, has failed to include all of the information required by 35 I.A.C. § 728.107 in land disposal restriction notifications.

267. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 728.107 of the federally approved hazardous waste management program for the State of Illinois.

268. Unless restrained by an Order of the Court, Premcor may continue to violate the federally approved hazardous waste management program for the State of Illinois.

269. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

THIRTY-FIRST CLAIM FOR RELIEF
(RCRA)
Failure to Minimize the Threat of Release

270. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 269, above.

271. Since at least March 3, 1997, Defendant has not maintained and operated the overflow pit, the dike of tanks 51 and 59, the dike of tank 28, and the crude unit at the Blue Island Refinery to minimize the possibility of any release of hazardous waste or hazardous waste constituents to the soil that could threaten human health or the environment.

272. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 725.131, as referenced by 35 I.A.C. § 722.134(a)(4), of the federally approved hazardous waste management program for the State of Illinois.

273. Unless restrained by an Order of the Court, Premcor may continue to violate the federally approved hazardous waste management program for the State of Illinois.

274. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

THIRTY-SECOND CLAIM FOR RELIEF
(RCRA)
Failure to Determine the Average VO Concentration of Hazardous Waste

275. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 274, above.

276. Since at least December 6, 1996, Defendant, has failed to determine the average volatile organic ("VO") concentration of certain hazardous wastes at the point of waste origination using either direct measurement or by knowledge.

277. The acts or omissions referred to in the preceding paragraph constitute violations of 40 C.F.R. § 265.1084(a)(2).

278. Unless restrained by an Order of the Court, Premcor may continue to violate the requirements of RCRA.

279. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

THIRTY-THIRD CLAIM FOR RELIEF
(RCRA)
Treatment, Storage or Disposal of Hazardous Waste Without a Permit

280. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7, 95 through 112, and 255 through 279, above.

281. On several occasions since at least 1993, Defendant has discharged hazardous waste to the diked areas of tank 55 and tank 28 without a permit and without interim status, and has otherwise treated, stored or disposed of hazardous wastes without a permit and without interim status.

282. The acts or omissions referred to in the preceding paragraph constitute violations of 35 I.A.C. § 703.121(a) and Section 3005(e) of RCRA, 42 U.S.C. § 6925(e).

283. Unless restrained by an Order of the Court, Premcor may continue to violate RCRA and the federally approved hazardous waste management program for the State of Illinois.

284. Pursuant to Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), Pub. L. 104-134 and 61 Fed. Reg. 69,360 (Dec. 31, 1996), Premcor is liable for injunctive relief and (1) a civil penalty of up to $25,000 per day for each violation occurring prior to January 30, 1997, and (2) a civil penalty of up to $27,500 per day for each violation occurring on or after January 30, 1997.

THIRTY-FOURTH CLAIM FOR RELIEF
(CERCLA)
Failure to Notify National Response Center

285. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 113 through 114, above.

286. On several occasions since at least 1994, Defendant has failed to immediately notify the National Response Center of releases from its Facility of hazardous substances in an amount equal to or greater than the reportable quantity for those substances.

287. The acts or omissions referred to in the preceding paragraph constitute violations of Section 103(a) of CERCLA, 42 U.S.C. § 9603.

288. Pursuant to Section 109(c)(1) of CERCLA, 42 U.S.C. § 9609(c)(1), Premcor is liable for civil penalties in an amount not to exceed $25,000 per day for each day the violation continues, and in an amount not to exceed $75,000 per day for each day that any second or subsequent violation continues.

THIRTY-FIFTH CLAIM FOR RELIEF
(EPCRA)
Failure to Notify State and Local Authorities

289. Plaintiff realleges each and every allegation set forth in paragraphs 1 through 7 and 115 through 117, above.

290. On several occasions since at least 1994, Defendant has failed to notify the SERC immediately of a release of a hazardous or extremely hazardous substance as required by Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

291. On several occasions since at least 1994, Defendant has failed to notify the LEPC immediately of a release of a hazardous or extremely hazardous substance as required by Section 304(a) of EPCRA, 42 U.S.C. § 11004(a).

292. On several occasions since at least 1994, Defendant has failed to provide a written follow-up emergency notice to the SERC as soon as practicable after a release which requires notice

under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), in accordance with the requirements of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

293. On several occasions since at least 1994, Defendant has failed to provide a written follow-up emergency notice to the LEPC as soon as practicable after a release which requires notice under Section 304(a) of EPCRA, 42 U.S.C. § 11004(a), in accordance with the requirements of Section 304(c) of EPCRA, 42 U.S.C. § 11004(c).

294. The acts or omissions referred to in the preceding paragraph constitute violations of Section 304 of EPCRA, 42 U.S.C. § 11004.

295. Pursuant to Section 325(b)(3) of EPCRA, 42 U.S.C. § 11045(b)(3), Premcor is liable for civil penalties in an amount not to exceed $25,000 per day for each day the violation continues, and in an amount not to exceed $75,000 per day for each day that any second or subsequent violation continues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States, respectfully requests that this Court:

1. Order Premcor to perform appropriate injunctive relief to comply with the CAA, the CWA, and RCRA.

2. Order Premcor to take appropriate measures to mitigate the effects of its violations of the CAA, CWA, RCRA, CERCLA, and EPCRA;

3. Assess civil penalties against Premcor for up to the amounts provided in the applicable statutes; and

4. Grant the United States such other relief as this Court deems just and proper.

Respectfully submitted,

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